

CAUSE NO. 2019DCV-5158-C

LORETTA CHAVEZ	§	IN THE DISTRICT COURT OF
	§	
V.	§	NUECES COUNTY, TEXAS
	§	
CESAR ORNELAS LAW, PLLC, CESAR	§	
ORNELAS, II, CESAR ORNELAS, I,	§	
GROUP OF LEGAL SPECIALTIES, LLC	§	
AND CHARLES M. FINEGAN	§	94th JUDICIAL DISTRICT

PLAINTIFF'S FIRST AMENDED PETITION AND REQUEST FOR DISCLOSURE

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff, Loretta Chavez complains of Defendants, Cesar Ornelas Law, PLLC, Cesar Ornelas, II, Cesar Ornelas, I, Group of Legal Specialties and Charles M. Finegan, and would show as follows.

**I
DISCOVERY CONTROL PLAN**

1. Based upon this Petition, this case should be controlled by a discovery control plan Level 3 pursuant to the Texas Rules of Civil Procedure, Rule 190.

**II
RULE 47 STATEMENT OF RELIEF**

2. In accordance with Texas Rule of Civil Procedure 47, Plaintiff seeks monetary relief of over \$500,000. This is not an expedited action.

**III
PARTIES**

3. Plaintiff, Loretta Chavez, is a resident of Bernalillo County, New Mexico and is the biological daughter of Helen Chavez, deceased, and brings this action in her in her individual and representative capacity. The last three digits of her social security number are 675.

4. Defendant, Cesar Ornelas Law, PLLC, is a Texas Professional Limited Liability Company and may be served with citation by serving its registered agent, Cesar Ornelas, II, at his

principle place of business, Cesar Ornelas Law, PLLC, 6243 IH10 W Suite 808, San Antonio, Texas 78201, or wherever he may be found.

5. Defendant, Cesar Ornelas, II, is an attorney with his principle place of business in San Antonio, Texas and may be served with citation by serving him at his principle place of business, Cesar Ornelas Law, PLLC, 6243 IH10 W Suite 808, San Antonio, Texas 78201, or wherever he may be found.

6. Defendant, Cesar Ornelas, I, is an individual residing in Cameron County, Texas and may be served at his principle residence, 32649 Edgewater Isle Drive, Los Fresnos, Texas 78566, or wherever he may be found.

7. Defendant, Group of Legal Specialties, LLC, is a Texas Limited Liability Company with its principle place of business in Cameron County, Texas and may be served by serving its registered agent, Cesar Ornelas, I, at 301 East Harrison Ave, Harlingen, Texas 78550, or wherever he may be found.

8. Defendant, Charles M. Finegan, is an individual residing in Albuquerque, New Mexico and the owner of Riverside Funeral Home of Albuquerque, and may be served at his principle place of business, at 225 San Mateo Blvd NE, Albuquerque, New Mexico 87108, or wherever he may be found.

IV JURISDICTION AND VENUE

9. This Court has subject matter jurisdiction over the controversy because the claims asserted in this Petition arose, in whole or in part, in Texas and the amount in controversy exceeds the minimum jurisdictional limits of this Court.

10. This Court has personal jurisdiction over each Defendant because the acts and omissions complained of herein occurred in Texas, each Defendant does and/or did do business in

the State of Texas, has committed a tort, in whole or in part in Texas, is a resident and citizen of Texas, and/or has minimum contacts with the State of Texas during the period of time complained of herein.

11. Venue is properly laid in this county because all or a substantial part of the events or omissions complained about herein occurred in the instant county. *See* TEX. CIV. PRAC. & REM. CODE § 15.002. Proper venue for one Defendant is proper venue for all Defendants because these claims arise out of the same transaction, occurrence, or series of transactions or occurrences. *Id.* at § 15.005.

V FACTUAL BACKGROUND

12. This is a civil barratry case against Texas lawyer Cesar Ornelas, II (“Ornelas Jr.”), his law firm, Cesar Ornelas Law, PLLC (the “Ornelas Firm”), his father, Cesar Ornelas, I (“Ornelas Sr.”), and his father’s company, arising out of a conspiracy to illegally and unethically solicit clients. At all material times, Ornelas Jr. and Ornelas Sr., along with others, and their employees or agents, were engaged in a conspiracy, partnership and/or joint venture to improperly and illegally solicit clients who were victims (or family members of victims) of catastrophic accidents, primarily from funeral homes associated with Ornelas Sr. The Plaintiff in this lawsuit is an unknowing victim of this barratry scheme and she brings this action pursuant to Texas Government Code § 82.0651 to recover statutory damages, including penalties and attorneys’ fees, and to disgorge all attorney’s fees and expenses paid.

13. Ornelas Jr. and his father have made it a family business to profit from the deaths and injuries of others. Ornelas Sr. is the owner of several funeral homes throughout Texas and the president of a “marketing firm” named Group of Legal Specialties, LLC (“GLS”). Under the guise of a “Business Development Manager” for GLS, Ornelas Sr. illegally “develops business”

for his son's law firm, the Ornelas Firm, through improper personal solicitation. Ornelas Sr. regularly sponsors meetings in the funeral home industry where he distributes brochures explaining to the funeral directors exactly how to solicit clients for law firms.¹ These funeral directors are trained to refer any families with a potential lawsuit to GLS, who will then refer the families to Ornelas Firm. In exchange, the funeral directors would receive compensation and the families would receive paid funeral expenses.²

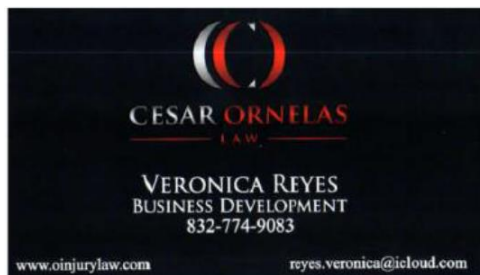
14. Ornelas Jr. is a young lawyer who graduated law school in 2016 but has allegedly already obtained more than \$20 million in settlements for his clients.³ Ornelas Jr. claims to have offices in Carlsbad, New Mexico, although he is not licensed to practice law there. In addition to obtaining cases solicited from his father's company GLS, Ornelas Jr. employs many of his own case runners, including Victor Chavez, Veronica Reyes and Sally Diaz. These case runners have business cards that state they do "Business Development" for the Ornelas Firm.⁴ These runners have solicited most of the funeral homes in West Texas and Eastern New Mexico, seeking referrals for the Ornelas Firm and, at the instruction of Ornelas Jr., and offering to pay referral fees to funeral directors.

¹ One such brochure is attached hereto as Exhibit 1.

² See Exhibit 1.

³ <https://oinjurylaw.com/about-attorney-cesar-ornelas/>

⁴ The business card for one of the runners, Veronica Reyes, looks like this:



15. One such funeral home director is Charles M. Finegan (“Finegan”), the owner of Riverside Funeral Home of Albuquerque (“Riverside”). Finegan is a long-time friend of Ornelas Sr. and has aided Ornelas Sr. in the solicitation scheme. At the New Mexico Funeral Directors State Convention in Albuquerque, in March of 2018, Ornelas Sr. and Finnegan approached other funeral home directors, including Bill Vallie of Houston, and told them they could receive “six figure” checks if they signed up clients for law firms. Finegan has received more than \$100,000 for soliciting and referring cases. Finegan would offer to pay his employees at Riverside bonuses if they solicited clients, and they were encouraged to solicit victims seeking funeral services from Riverside.

16. Because Ornelas Jr. is young and inexperienced, he often refers the cases he solicits to other lawyers.

17. In April of 2016, Helen Chavez suffered a fall in which she fractured her hip and dislocated her right patella while under the care of hospice at The Rio at Las Estancias nursing home in Albuquerque, New Mexico. The care providers neglected to take Helen to the emergency room or provide her with any treatment for her injuries. Helen died the next day at only seventy-five years old.

18. The body of Helen was transported to Riverside Funeral Home in Albuquerque, New Mexico. Loretta Chavez, the biological daughter of Helen, notified Riverside not to cremate Helen’s body so that an autopsy could be performed. Loretta suspected that her mother did not die of natural causes. An autopsy was performed by the Office of Medical Investigator who issued a report on July 13, 2016. Loretta was correct; the autopsy indicated that Helen suffered “blunt hip trauma” caused by the fall which “contributed to her death.”

19. Upon receiving the autopsy, the Funeral Home Manager of Riverside, Chris Trujillo, personally contacted Loretta and solicited her to hire Ornelas Sr. to bring a lawsuit against

the nursing home. Following this call, Trujillo personally visited Loretta at her home where she signed papers to hire Ornelas Sr., who she thought was a lawyer, but he is not. Loretta was presented the card for Ornelas Sr. which looked similar to this:



At the time, Ornelas Jr. had not graduated law school, had not passed the bar exam and was not licensed to practice law. It is believed that Trujillo was paid for his illegal solicitation services.

20. Loretta and her family worked with Ornelas Sr., Ornelas, Jr. to pursue the case. During this time, Loretta would meet with Ornelas Sr. and Ornelas Jr. and they would discuss the status of the case. Loretta believed that the Ornelas Sr., Ornelas, Jr., the Ornelas Firm. At no time was Loretta advised that the way she and her family had been procured as clients was illegal or improper or caused her a wrongful injury.

21. Part of the lawsuit was settled for a confidential amount in April of 2019. Several lawyers were paid substantial fees from this settlement. It is believed that some lawyers shared these fees with Ornelas Jr., Ornelas, Sr., or his company GLS, pursuant to the fee sharing contract. It is also believed that Finnegan received payment for soliciting Loretta and her family and that bonuses were paid to his employees for this solicitation, including Trujillo. This illegal and unethical solicitation is a direct product of the conspiracy engaged in by Ornelas, Sr., Ornelas, Jr., Finnegan and others to solicit clients.

VI
STATEMENT OF CLAIMS AND THEORIES OF LIABILITY

22. Therefore, it has become necessary to bring this suit to collect a legal and equitable debt of money damages owing to Plaintiff due to the Defendants' conduct. Specifically, Plaintiff brings claims against all Defendants, jointly and severally, for civil barratry, civil conspiracy and aiding and abetting.

A. Civil Barratry Under Texas Government Code 82.0651

23. Section 82.0651 of the Texas Government Code allows a client "to void a contract for legal services that was procured as a result of conduct violating Section 38.12(a) or (b), Penal Code, or Rule 7.03 of the Texas Disciplinary Rules of Professional Conduct ... regarding barratry by attorneys or other persons" and to "recover from any person who committed barratry" statutory damages. TEX. GOV'T. CODE § 82.0651(a), (b).

24. Defendants, with intent to obtain an economic benefit, violated several provisions of the Texas Penal Code prohibiting barratry, including:

- Section 38.12(a)(2) which prohibits a person from soliciting employment, either in person or by telephone, for himself or another.
- Section 38.12(a)(3) which prohibits a person from paying or advancing or offering to pay or advance to a prospective client money or anything of value to obtain employment.
- Section 38.12(a)(4) which prohibits a person from paying or offering to pay third parties to solicit employment.
- Section 38.12(a)(6) which prohibits a person from accepting or agreeing to accept money or anything of value to solicit employment.

- Section 38.12(b)(1) which prohibits a person from knowingly financing the commission of barratry, including the personal solicitation of clients or the offering money to clients in exchange for legal representation.
- Section 38.12(b)(2) which prohibits a person from knowingly investing funds the person knows or believes are intended to further barratry, including the personal solicitation of clients or the offering money to clients in exchange for legal representation.
- Section 38.12(b)(2) of the Texas Penal Code prohibits a person, who is a professional, from knowingly accepting employment within the scope of their license that resulted from improper personal solicitation.

25. Furthermore, Ornelas Jr. and the Ornelas Firm (the “Lawyer Defendants”), violated Texas Disciplinary Rule of Professional Conduct 7.03. Section (a) of this rule prohibits a lawyer from seeking professional employment by in person or by telephone when the nonclient has not sought the lawyer’s advice regarding employment or when no past or present attorney-client relationship exists when a significant motive is pecuniary gain. Section (b) of this rule prohibits a lawyer from paying or offering to pay anything of value to a person not licensed to practice law for soliciting prospective clients for or for referring prospective clients. Section (d) of this rule prohibits a lawyer from entering into an agreement for, charging for, or collecting a fee from, an contract procured by barratry. The Lawyers Defendants violated these sections by through the conduct described herein.

B. Civil Conspiracy and Aiding and Abetting

26. As set forth above, Defendants were members of a combination of two or more persons. The object of the combination was to accomplish an unlawful purpose by unlawful means – the unlawful barratry and solicitation of Plaintiff. The members, one or more of the Defendants

herein and other third parties, had a meeting of the minds on the object or course of action, to gain the representation of Plaintiff by illegal and unethical solicitation. As alleged above, one or more of the members committed an unlawful, overt act in furtherance of the object or course of action. As such, Defendants are jointly and severally liable for each other's violations of Texas Government Code, Section 82.0651.

VII VICARIOUS LIABILITY

27. Defendants are vicariously liable under a theory of partnership. Defendants, individually and through their respective firms or entities, formed various partnerships and entered into various agreements to associate for profit. Each Defendant received or had a right to receive a share of the profits, expressed intent to be a partner in the ventures, participated or had a right to participate in the control of the business, shared or agreed to share the losses of the business or liability, and/or contributed or agreed to contribute money. Accordingly, each Defendant is a member of the partnership formed for the purpose of carrying on the barratry activities described herein and each is liable for the conduct of one another as described herein all of which occurred within the course and scope of the partnership.

28. Defendants are also vicariously liable under a theory of joint enterprise or joint venture. Defendants were engaged in a joint enterprise or joint venture because they had express and implied agreements to carry out the actions outlined herein. Defendants had a community of pecuniary interest in that common purpose and an equal right to direct and control the enterprise or venture. Defendants each took actions in furtherance of the purpose of the joint enterprise, which was to commit barratry.

VIII DEFENSES TO LIMITATIONS

29. To the extent necessary, Plaintiff affirmatively pleads the discovery rule, fraudulent concealment and/or the *Hughes* tolling rule to any defense of limitations asserted by Defendants regarding any of Plaintiff's claims or causes of action. Plaintiff did not discover, nor could she have discovered through reasonable diligence, Defendants' barratry scheme. Acts of barratry are inherently undiscoverable. Even if Plaintiff knew she had been solicited, she did not know, nor could she reasonably discover, that she had been wrongfully solicited and injured because of this solicitation. Barratry is a closed-loop crime.

IX RESPONDEAT SUPERIOR

30. Plaintiffs plead the legal theory of *respondeat superior* as between the individual lawyers named herein and their respective law firms.

X DAMAGES

31. Plaintiff seeks damages within the jurisdictional limits of this Court. Texas Government Code, Section 82.0651 provides that a person who prevails in a civil barratry action may recover from each Defendant statutory damages in the amount of \$10,000 per violation per Defendant and reasonable and necessary attorney's fees as well as all fees and expenses paid under the contract. TEX. GOV. CODE §§ 82.0651(b). Defendants each committed no less than two acts of barratry in relation to the illegal and improper solicitation of the Plaintiff. Therefore, each Defendant is liable to each Plaintiff for \$20,000. Plaintiff seeks to recover all fees and expenses paid under the contract, which exceeds \$100,000. In addition, Plaintiff seeks reasonable and necessary attorney's fees.

XI
JURY DEMAND

32. Plaintiff desires to have a jury decide this case and makes this formal request pursuant to Texas Rule of Civil Procedure 216. This request is filed more than thirty days before this case has been scheduled for trial and all fees have been paid.

XII
REQUESTS FOR DISCLOSURE

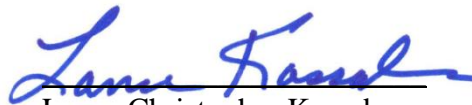
33. Plaintiff requests that Defendants disclose all information and documents required under Rule 194, Texas Rules of Civil Procedure within the time required under this rule.

XIII
PRAYER

WHEREFORE, Plaintiff prays that after trial herein, that judgment be entered against Defendants jointly and severally as prayed for, that costs of court be taxed against Defendants, that Plaintiff be given prejudgment as well as post judgment interest, and for such other and further relief, at law and in equity to which Plaintiff may show herself to be justly entitled, to which the Court believes Plaintiff to be deserving, and for which Plaintiff will ever pray.

Respectfully submitted,

THE KASSAB LAW FIRM



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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document has been forwarded to all parties who have answered, if any, pursuant to the Texas Rules of Civil Procedure on this the 16th day of October, 2019.



David Eric Kassab

EXHIBIT 1



Group Of Legal Specialties

Proudly Assisting Families in Need

The Sequence

1. When the death call comes in, get as much information as possible (name of the deceased, location of the accident and what happened, etc.)
2. Contact the GLS rep with the information as soon as possible.
3. GLS will do the research and call the funeral home back on the viability of the case prior to the family coming in for the arrangement conference.
4. Set the stage with the family using the language examples included in this brochure.
5. Once the family asks "who?", refer to the GLS rep and contact the rep during the arrangement conference.
6. Once we get the go ahead from the family and the paperwork is signed, we will coordinate getting the monies to the funeral home for the funeral expenses.
7. The GLS rep will keep the funeral home up to date on the progress of the case.

Our specialists are here to help you and the families you serve with expert assistance at a time when it is needed most. A family's loss is never easy, let GLS help them begin the process of moving forward.



Example: GLS Introduction Language

Mr. Funeral Director, we don't have much money and need to look at cremation or some type of service that we can afford.

"I understand Mr. and Mrs. Jones. Again, I am truly sorry for your loss. It is tragic what happened and I feel really badly for you and your family. I know you have many emotions running through your mind right now. We want to provide you a service that works best for you, but it is very important that you have someone acting on your behalf that is making sure that witness stories aren't changing and that evidence is not disappearing. There are people out there that will make sure your interests are protected and will even help with funeral expenses as well as other expenses."

Mr. Funeral Director, who would that be?

"It is a group that helps families all over the country and they can be a big help to you. So, why don't we select the type of service that you really want and we will get them on the phone in just a bit."

Example: GLS Introduction Language

Mr. Funeral Director, this casket is very beautiful and John is sure deserving of it but I just don't think it is something that we can afford.

"I understand Mrs. Smith. Again, I want you to know that I am truly sorry for your loss. It is tragic what happened and I feel really badly for you and your family. I know you have many emotions running through your mind right now. We want to provide you a service that works best for you and your family, but it is also very important that you have someone acting on your behalf that is making sure that witness stories aren't changing and that evidence is not disappearing. There are people out there that will make sure your interests are protected and will even help with the funeral expenses as well as other expenses. This might be a way for you to get the service that you really want."

Mr. Funeral Director, who would that be?

"It is a group that helps families all over the country and they can be a big help to you. So, why don't we select the type of service that you really want and we will get them on the phone in just a bit."

Example: GLS Introduction Language

"Mr. and Mrs. Johnson, the total charges for this service come to \$11,568.20 and that includes all of the services and items that we just summarized."

Well, Mr. Funeral Director that is more than we expected. Is there some way to bring the charges down a bit.

"Mr. and Mrs. Johnson, we can look at another casket but before we do that, let me tell you about another option that could be of help to you. It is tragic what happened and I feel really badly for you and your family. I know you have many emotions running through your mind right now, but it is very important that you have someone acting on your behalf that is making sure that witness stories aren't changing and that evidence is not disappearing. There are people out there that will make sure your interests are protected and will even help with the funeral expenses as well as other expenses."

Mr. Funeral Director, who would that be?

"It is a group that helps families all over the country. Why don't we get them on the phone right now and you can talk to them and see what help they might be able to provide you?"

Group of Legal Specialties

P.O. Box 40344

Austin, TX 78704

512-517-7378

Summarizing At-Need Contract Charges

Funeral Director: "Now Sir, I am going to review the charges for the services that have been selected. Please feel free to stop me at any time for any questions that you might have (turn at-need contract around to face the family). The professional charges for our staff are \$4,950. The charge for embalming the body is \$800." ----*Continue summarizing each charge with the family through reviewing the total cost of all goods and services----*

Funeral Director: "Mr. Jones, I know this expense is totally unexpected and again, what has happened to your son is truly tragic and my heart goes out to you and your family. We do know of some folks that work with families and funeral homes all over the country in dealing with tragic situations just like yours, and they help the family with these expenses (wait for a response)."

Mr. Jones: What do you mean?

Funeral Director: "Well Sir, in accidents such as your son's, they will help pay the funeral expenses and even in certain circumstances pay for the entire funeral expense. If you would like, we can get them on the phone and let them explain it to you."

Mr. Jones: Ok, I would like to hear more about what they do.

At Need Price Shopping

Suggested Phone Language

Caller: Would you tell me what the cost of your cremation services are?

Funeral Home: "Ma'am, there are several options that you have with cremations and what will influence the price is the type of service that you choose. Our beginning cremation service is \$1,695 and they go up from there. Again, it really depends on the personalization you and the family desires.

Ma'am, to ensure that I have a better understanding and can make sure I don't miss any of the services we offer that would be beneficial to you and the family, may I ask you a couple of questions?"

Caller: Sure, that would be fine.

Funeral Home: "Is this a service that is needed soon?"

Caller: Yes, my husband passed away yesterday afternoon.

Funeral Home: "Ma'am, I am so sorry to hear. Had he been ill or was it something sudden?"

Caller: He was in a car wreck.

Funeral Home: "Oh ma'am, I am so very, very sorry. I know this is really difficult for you but we would have several service options available to you and your family. Ma'am, we also have some folks that quite possibly would help you with the expense associated with the service. With their help, it might allow you to get the service that you really want.

Now Ma'am, what would be a good time for you to come in?"